

### ***REMARKS***

The Office Action dated June 12, 2003 has been carefully considered. Claims 17, 33, 36 and 37 have been amended. Claims 12, 14, 15, 17, 19, 20 and 33-40 are in this application.

The Examiner indicated that the continuity of the application must be updated. Applicants note that the specification was amended in a preliminary amendment submitted with the application to update the continuity data on the first page of the specification.

The previously presented claims were rejected under 35 U.S.C. §102(b) as anticipated by Carter et al. Applicant submits that this reference does not teach or suggest the invention defined by the present claims.

Carter et al. disclose a method for stimulating to change a brainwave to a desired brainwave frequency. The method includes determining a desired frequency and a current actual brain wave frequency of a user. Two signals at two frequencies are generated with a magnitude between the current actual brain wave frequency and the desired frequency within a predetermined range of the current actual brain frequency. An output detectable to the user is produced corresponding to the two frequencies to generate a beat signal equal to the frequency difference.

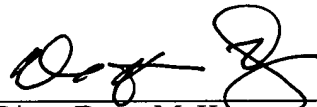
In contrast to the invention defined by the present claims, Carter et al. do not teach or suggest a method of adjusting cognitive function by determining a pattern of sonic variations in alpha rhythm, as defined in each of present independent claims 12, 17, 33 and 37. To the contrary, Carter et al. teach determining the actual current brain wave frequency of an individual. Accordingly, Carter et al. determine the user's unique brainwave rate at the time of operation. In contrast, the present invention determines a pattern of sonic variations in alpha rhythm which are not based in each application upon the individual but are always generic in tone, pitch and rhythm. ✓

Furthermore, Carter et al. do not teach or suggest determining a pattern of sequences of tones which are an alpha rhythm or a tonal variation from the alpha rhythm. ✓  
Rather, Carter et al. target particular frequencies for each individual user cued to their specific brainwave ratio at the time of application, but do not teach or suggest a method ✓

system which uses a unique pattern of alpha rhythms that are not based on an individual application. As described on page 7, lines 11-26 of the present application, it has been found that the application of a pattern of sonic variations in alpha rhythm can be used for accelerating or decelerating cortical alpha rhythms of the individual thereby improving cognitive performance. Moreover, there is no teaching or suggestion in Carter et al. that a pattern of sonic variations in alpha rhythm can be used. Thus, the present invention is not anticipated by Carter et al. because Carter et al. do not teach all the limitations of the present claims, and withdrawal of this rejection is respectfully requested. Dependent claims 14, 15, 19, 20, 34, 35 and 38-40 are believed to be allowable for the same reasons the respective independent claims are allowable. ✓

In view of the foregoing, Applicant submits that all pending claims are in condition for allowance and requests that all claims be allowed. The Examiner is invited to contact the undersigned should she believe that this would expedite prosecution of this application. It is believed that no fee is required. The Commissioner is authorized to charge any deficiency or credit any overpayment to Deposit Account No. 13-2165.

Respectfully submitted,



Diane Dunn McKay  
Reg. No. 34,586  
Attorney for Applicant(s)

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MATHEWS, COLLINS, SHEPHERD & McKAY, P.A.  
100 Thanet Circle, Suite 306  
Princeton, New Jersey 08540-3662  
Telephone: (609) 924-8555  
Telecopier: (609) 924-3036